

Internal Revenue Service
District Director

Department of the Treasury

[REDACTED]
Date: AUG 30 1993

Person to Contact:
[REDACTED]

Contact Telephone Number:
[REDACTED]

Refer Reply to:
[REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(4) of the Internal Revenue Code.

The evidence presented disclosed that the organization was formed on [REDACTED] under the Nonstock Corporation Laws in the State of [REDACTED].

The purposes for which [REDACTED] has been created is to provide for the upkeep, improvements and conservation of a communal parcel of land owned by the organization.

The organization's membership requirements state that an individual be a landowner of a lot in the [REDACTED] development located in [REDACTED]. Ownership of each lot entitles the member to one vote.

The activities of [REDACTED] include the upkeep of the communal land which includes a small pond where there is a dam. The upkeep of the property includes lawn care, dam repair and maintenance reserve and a park improvement reserve. The area has signs posted at the entrance which read "PRIVATE PROPERTY/NO TRESPASSING." The entrance to and use of the common grounds and pond is restricted to the use of members who reside at the [REDACTED].

The organization's sole source of support is derived from membership fees. Expenses are related to the maintenance of the property.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it primarily engages in promoting in some way the common good and general welfare of the people of the community.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof; ...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

██████████ does not meet the requirements of 501(c)(4) as stated in the Internal Revenue Code or Income Tax Regulations. Unlike, the organization described in Revenue Ruling 74-199 your organization fails to satisfy the requirement of benefitting a community. Your activities benefit a private group of individuals - the members. The organization owns and maintains common land for the use and enjoyment of members only. The common areas are not available to general public.

Your organization fails to meet the requirements of 501(c)(4) of the Code. You cannot be recognized as a corporation in good standing, since you have not provided a copy of your certificate of Incorporation. Only the ownership and maintenance by a homeowners association of such areas as roadways and parklands, sidewalks and streetlights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to members of the homeowners association is considered appropriate and consistent with exemption under 501 (c)(4) of the Code.

It appears that your organization may elect to file under section 528 to receive certain tax benefits which, in effect, permit the exclusion of exempt function income from gross income. The election to file under section 528 is to be made by filing Form 1120-H, U.S. Income Tax Return for Homeowners Associations. However, if you do not elect to file under section 528, you are required to file Federal income tax returns on Form 1120.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(4) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours, 11

District Director

Enclosure: Publication 892